

**STATUS OF CLAIMS**

Claims 1-20, and 22-23 are pending.

Claims 1-20, and 22-23 stand rejected by the Examiner.

Claims 1 and 14 have been amended, without prejudice, herein.

**REMARKS**

Reconsideration of this application is requested.

Claims 1-20, and 22-23 stand rejected under 35 U.S.C. 102(e) as being anticipated by Zigmond (United States Patent No. 6,698,020). This rejection is respectfully traversed. Applicant has amended Claims 1 and 14 to clarify the storing and determining steps (and subsequent displaying/selecting step) take into account *both* data associated with the *viewer selected program, and* data associated with the competing programs *that were not selected*. By way of example only, support for the amendments to Claim 1 may be found at pages 21-23 of the application as originally filed. Accordingly, no new matter has been added.

The Zigmond reference fails to disclose, teach or suggest such an approach. The Examiner asserts that Column 11, lines 13-30, and Column 13, lines 5-28 of Zigmond teach the steps of “storing data indicative of the viewer selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program; determining viewing preferences using the stored data indicative of the user selected TV program and data indicative of at least some others of the TV programs competing with the viewer selected TV program.” However, a detailed reading of the above-cited passages of Zigmond reveals that Zigmond makes no mention whatsoever of *storing data or using data (e.g. traits) of the non-selected programs for use in combination with the data or traits of the selected program in order to arrive at viewing preferences that*

are then used to control programming displayed to the viewer. In particular, Zigmond recites:

The viewer and system information may further include information relating to the viewing habits of the viewers in the household. The viewing habits may be described by monitoring the times of day that programming is watched, the amount of time spent viewing particular channels, preferred types of programming, etc. In some embodiments, ad insertion device 80 is included in a home entertainment system component such as a WebTV box that also has Internet and World Wide Web browsing capabilities. Monitoring preferred Internet sites may provide useful information to be stored in storage location 82 in order to further specify the preferences and background of the viewer. In view of the foregoing, it is to be understood that the types of viewer and system information stored in storage location 82 may be any desired data that characterizes the viewer, the features of the home entertainment system, the content of the video programming feed, the geographical location of the household, and the like. (col. 11, lines 13-30)

As shown, a detailed reading of Zigmond reveals that to the extent Zigmond uses the viewing habits of a user, it is limited to monitoring the times of day that programming is watched, the amount of time spent viewing particular channels, the preferred type of programming, Internet sites visited and the like. Zigmond, however, does *not* teach, or even suggest for that matter, using any *information indicative of programs the user did not select*, and clearly fails to teach or suggest using *data indicative of at least some others of the TV programs competing with the viewer selected TV program that were not selected* – as is recited by present Claim 1. Such data may be useful for determining hidden traits or characteristics that otherwise may go undetected or undeveloped, such data or traits being utilized in applicant's invention to determine viewing preferences.

Accordingly, as Zigmond fails to teach each of the limitations of presently appearing Claim 1, Applicant submits Zigmond fails to render claim 1 unpatentable under 35 USC 102. Reconsideration and removal of the rejection of Claim 1 is requested. Applicant also requests reconsideration and removal of the rejections of Claims 2-13 as well, at least by virtue of these claims' ultimate dependence from patentably distinct base Claim 1. Independent Claim 14 recites similar features and limitations and is likewise patentable.

Reconsideration and removal of the rejection of Claim 14 is requested for at least the foregoing reasons as well. Applicant also requests reconsideration and removal of the rejections of Claims 15-20 and 22-23, at least by virtue of these claims' ultimate dependence from patentably distinct base Claim 14.

**CONCLUSION**

Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully submits the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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